## REMARKS

Claims 1-48, 54, 61-63, and 65 have been previously cancelled and apparatus claim 52 is cancelled by this amendment. The claims remaining in the application are 49-51, 53, 55-60, 64, and 66-87.

Applicant gratefully acknowledges the interview granted to applicant's attorney, Norman Rushefsky, on October 23, 2008. At the interview the previous amendment submitted after final rejection was discussed including discussion of the references cited in the final rejection; i.e. Akiyama et al. and Cooper et al. At the interview, and as more fully described below, applicant's attorney pointed out that both of these prior art references do not relate to the type of system and methods described by applicant in that both teach methods of controlling use of data already in the possession of the recipient. In accordance with such prior art systems there is a need to disseminate a substantial amount of information to recipients before they even select which information they presently require. As noted in the discussion in applicant's specification this is one of the problems which applicant' s invention overcomes. The Examiner appeared to express agreement with this line of argumentation by applicant's attorney.

In the course of discussion of various claims at the interview the Examiner expressed concern relative to language in the claims that could be improved by more positive recitation of steps in the claims so that such features could be given patentable weight to help define patentably over the prior art. In this regard, several points were raised by the Examiner concerning claim language which could be improved upon. The Examiner requested at the interview that his supervisor, Mr. Calvin Hewitt, also be consulted. The invention and a brief discussion of the prior art references were provided by applicant's attorney to Mr. Hewitt and review was made of a sample claim. Mr. Hewitt provided some helpful suggestions for improving claim language to more positively recite method steps. Applicant's attorney has endeavored to incorporate the suggestions of Examiners Winter and Hewitt. In this regard the prior claimed recitation of (see claim 49) "providing a copy of the bundle..." is now amended to recite "transmitting a copy of the bundle..." to more precisely define a delivery step. Also with regard to claim 49 there is more positive recitation that the bundle

identification information is associated with the bundle and the Examiner will note that this information includes a bundle store identifier (see last few paragraphs of the claim). Even if in the prior art of Akiyama et al. and Cooper et al. some signal might be said to be interpreted as a token there would certainly not be a need for the token to provide a bundle store identifier since the recipient already is in possession of the data for which permission is needed to open. With regard to claim 55 (last paragraph) and others possessing the term "if" amendment has been made, pursuant to the Examiner's request to remove this conditional term and substitute therefore a more positive term.

In view of the above amendments it is believed that the questions concerning the defining of more positive limitations have been successfully resolved and it is believed that advancement of the application to issue is appropriate.

Applicant provides below argumentation provided in the prior amendment for the convenience of the Examiner.

Applicant' s invention is directed to a method and apparatus for sharing electronic data in computerized environments. As noted on page 2 of applicant's specification a particular challenge with regard to the secure maintenance of files to be shared is that intended recipients may have no direct physical access with the computer system storing the shared data. Additional challenges are provided with regard to communicating the intent to share information including a file or files that may be in the form of files or folders of data. In this regard the method and apparatus of the invention provides for a sharer to select data to be shared wherein a bundle server stores a selection of the data in a storage container called a bundle. A tokenizer produces a token that represents the bundle. The token includes, among other things, a bundle identifier. The token can be delivered to a recipient by any suitable method, for example e-mail attachment. A redeemer interacts with the bundle server to retrieve some or all of the contents of the bundle corresponding to the bundle identifier in the token. The redeemer creates copies of the data in a storage facility or provides the data to an application. A recipient can use the redeemer to redeem the token at a time of his/her choosing. As described in the various embodiments of applicant's specification the methods

and apparatus of the invention enable sharing that provides a better balance of security, privacy and convenience.

**Rejection Under 35 U.S.C. § 103**

The Office Action has finally rejected claims 49-53, 55-60, 64, and 66-87 under 35 U.S.C. 103(a) as being unpatentable over Akiyama et al. (U.S. Patent 5,805,699) over Cooper et al. (U.S. Patent 5,563,946). This rejection is respectfully traversed. Applicant also respectfully traverses reliance by the Examiner in every instance in the final rejection to the employment of "Official Notice" to support the rejections of obviousness where the combination of cited references themselves fail to support the particular rejection. Official notice is suitable for use by an Examiner wherein facts within the particular knowledge of the Examiner can be supported by an affidavit of the Examiner. Absent such affidavit, applicant vigorously objects to reliance by the Examiner upon conclusions that the Examiner has failed to support via exemplary prior art. The Examiner should understand the difficulty applicant faces in responding to a rejection regarding the propriety of combining of references wherein the subject matter is deemed by the Examiner to be so well known that the Examiner feels justified in concluding that official notice is proper and suitable for that combination of references. Assuming the Examiner is correct, the Examiner should have no difficulty in supporting such matters by substituting appropriate prior art.

Claim 49 as amended is directed to a method for sharing data with one more recipients. The method comprises identifying a selection of data comprising a file or files to be shared. A bundle containing the file or files and information about a selection of data is created and stored in a location accessible by a bundle server. Bundle identification information is associated with the bundle. A token representing the bundle is created and the token includes bundle identification information. The token is provided to a recipient not yet possessing the file or files. Communication is established between the recipient and the bundle server. Upon receipt of a request for the bundle from the recipient including the bundle identification information from the token a copy of the bundle containing the file or files to be shared may be provided to the recipient having the token. An

encrypted bundle name, corresponding to a bundle name associated with the bundle is generated using a bundle store private key.

Claim 49 stands rejected under 35 USC 103 as being unpatentable over Akiyama et al. in view of Cooper et al.. Akiyama et al. discloses a software copying system which enables copyrighted software recorded in a master storage medium to be copied to a user's target storage medium in a legitimate manner. The master storage medium stores encrypted data. A contents identifier reading means reads out a software identifier of a particular copyrighted work stored in the master storage medium. A target storage medium is to be the ultimate recipient of the data encrypted in the master storage medium. A target storage medium identifier reading means reads out a storage medium identifier from the target storage medium. The information read out is communicated to a central site for generating a signature. Upon generation of an appropriate signature a data copying means is enabled to output the particular copyrighted work from the master storage medium to the target storage medium. The Examiner's attention is particularly directed to the fact that in all embodiments of Akiyama et al. the master storage medium is a data storage device that is in possession of the recipient. Thus, there is no need and thus no suggestion in Akiyama et al. to generate a bundle store identifier in addition to the bundle identifier because the bundle store is already in the possession of the recipient. Thus, Akiyama et al. also fails to suggest a method of providing a token to a recipient not yet possessing the file or files as is claimed in claim 49 and indeed in all claims now in the application. As noted in the applicant's specification the invention provides for methods and systems for sharing data. Akiyama et al contrarily is directed to methods and systems authenticating the right of a recipient to view data that is already in the recipient's possession. The advantage of applicant's method and apparatus is that no prior data storage device needs to be handed over to the recipient. Anyone receiving the token in accordance with applicant's method and apparatus can at the token recipient' s convenience communicate with the sharer a desire to receive a particular file or files identified by a bundle store identifier and a bundle identifier. Cooper at all is directed to an online selection of items to be delivered to an end-user wherein the user is provided with temporary access to the content by means of a temporary key. Cooper thus also teaches away from

applicant's invention by Cooper's teaching of selecting by the recipient desiring access and not the originator intending to share as in the claimed invention by transmitting a token identifying a bundle identifier and a bundle store identifier. In view of the above it is submitted that claim 49 is not rendered obvious by the combination of Akiyama et al. with Cooper et al.

Independent claims 53, 55, 57, 58, 60, 64 and 66 all have been amended to include the feature that the recipient does not yet possess the file or files identified by a token. In view of this it is respectfully submitted that these claims too are also not rendered obvious by the combination of Akiyama et al. taken with Cooper et al. In this regard applicant respectfully traverses the rejection of claims deemed by the Examiner as not being patently distinct from claim 49. The use of language like "not being patentably distinct" is used in situations involving questions of double patenting or election of species. It is not used to support a prior art rejection of claims particularly where there are substantive differences between each of these claims in the same application. Applicant is placed at a significant disadvantage in attempting to respond to a rejection that does not specifically set forth at least a prima facie reason in support of the rejection. The Examiner is reminded that it is the Examiner that bears the initial burden to set forth grounds for a prima facie rejection of each claim.

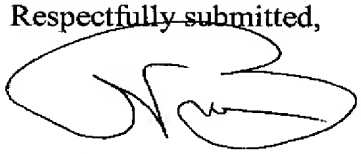
## CONCLUSION

Dependent claims not specifically addressed add additional limitations to the independent claims, which have been distinguished from the prior art and are therefore also patentable.

In conclusion, none of the prior art cited by the Office Action discloses the limitations of the claims of the present invention, either individually or in combination. Therefore, it is believed that the claims are allowable.

If the Examiner is of the opinion that additional modifications to the claims are necessary to place the application in condition for allowance, he is invited to contact Applicant's attorney at the number listed below for a telephone interview and Examiner's amendment.

Respectfully submitted,



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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.